

## **Chapter 16**

### **SUBDIVISION OF LAND\***

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\*Prior ordinance history--Ordinances 4-30-62, 5-11-70, 3-29-71, 6-31-72, 9-10-73, 5-25-76, 5-9-77; Post Code Ordinances 81-2, 4-27-81; 85-4, 3-27-85; 85-7, 7-10-85.

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### **ARTICLE I.**

### **IN GENERAL**

#### **Sec. 16-1. Title.**

This chapter is known and may be cited as the "Subdivision Ordinance of Rockingham County, Virginia."

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-2. Purpose and intent of chapter.**

(a) It is the policy of the county that the subdivision of land in the county, in accordance with reasonable requirements and guidelines, confers benefits upon the individual landowner and upon the community. When a landowner seeks to acquire the advantages of lot subdivision, the landowner must comply with the reasonable conditions established by the board for design, dedication, improvement and restrictive use of land so as to conform to the adopted comprehensive plan for the physical and economical development of the county and for the health, safety, convenience, and general welfare of the future lot owners in the subdivision and of the community at large.

(b) The subdivision of land is subject to the power of the county to implement the comprehensive plan. This chapter is adopted for the following purposes:

(1) To establish the procedure which must be followed in order to subdivide land in the county;

- (2) To ensure that this process includes appropriate and applicable reviews;
- (3) To protect and improve the public health, safety, convenience and welfare of the citizens of the county;
- (4) To ensure that residential areas are provided with healthy surroundings for family life; and
- (5) To ensure that the growth of the community is consonant with the efficient and economical use of public funds.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

### **Sec. 16-3. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section. Certain words and terms used herein shall be interpreted or defined as follows: Words used in the present tense include the future, words in the singular number include the plural, and the plural the singular, unless the natural construction of the word indicates otherwise.

*Adjoining:* Touching; abutting; contiguous.

*Agent.* The representative of the board of supervisors who administers this chapter.

*Agriculturally zoned.* Any land zoned A-1 or A-2 by the county zoning ordinance.

*Alley.* A permanent service way providing a secondary means of access to adjoining properties.

*Board.* "Board" shall mean the board of supervisors of the county.

*Clerk.* The clerk of the circuit court of the county.

*Commission.* The planning commission of the county.

*County administrator:* The chief administrative officer of the county.

*County attorney:* The attorney for the county, or his designee.

*Cul-de-sac.* The turn-around at the end of a dead-end street having an appropriate width for a safe and convenient reverse traffic movement.

*Distances and areas.* Refer to measurements in a horizontal plane.

*Division:* The dividing of land as allowed by this chapter.

*Easement.* A grant by a property owner of the use of land for a specific purpose or purposes.

*Erosion and sediment control administrator.* The individual, or designated agent, responsible for the administration of the erosion and sediment control policy for the county.

*Fee simple.* Absolute ownership of real property.

*Fire chief.* The fire and rescue chief, or designated agent, of the county.

*Frontage.* That line of a lot which adjoins a street or right-of-way unless the building location dictates otherwise.

*Health official.* The health director, or designated agent, of the county.

*Highway:* The word "highway" shall be construed to embrace streets, avenues, boulevards, alleys, lanes, viaducts, publicly maintained parking lots and all other public ways in the county.

*Highway engineer.* The resident engineer, or designated agent, employed by the commonwealth department of transportation.

*Lot.* A measured portion or parcel of land separated from other portions or parcels by description in a site plan or a recorded plat, or by metes and bounds, intended as a unit for the purpose, whether immediate or future, of transfer of ownership, or of development.

*Lot consolidation:* Combination of two (2) or more lots or parcels under the same ownership into a single lot or parcel.

*Lot, corner.* A lot abutting on two (2) or more streets at their intersection. Of the two (2) sides of a corner lot, the front shall be deemed to be the shorter of the two (2) sides fronting on streets unless the direction in which the primary building faces dictates otherwise.

*Lot, depth of.* The average horizontal distance between the front and rear lot lines.

*Lot, double frontage.* An interior lot having frontage on two (2) streets.

*Lot, interior.* Any lot other than a corner lot.

*Lot of record.* A lot, described by deed or on a plat, which has been recorded in the office of the clerk.

*Lot, width of.* The average horizontal distance between side lot lines.

*Parent tract.* The parcel from which a subdivision is made.

*Plat.* The schematic representation of land divided or to be divided, prepared by a surveyor licensed by the commonwealth. When used as a verb, "plat" is synonymous with "subdivide."

*Prescriptive right-of-way.* An easement obtained by usage across another's property allowing access through such property.

*Property.* Any tract, lot, parcel or several of such tracts, lots, parcels, etc., collected together for the purpose of subdividing.

*Public sewer.* Any system of pipelines or conduits, pumping stations, force mains, sewage treatment plants, and all other constructions, devices, and appliances appurtenant thereto, used for conducting or treating sewage, which is owned or controlled by the county or any authority or district created thereby, or any municipal corporation or other public entity created thereby located within the boundaries of the county, or which is owned and operated by a public utility as defined in Virginia Code section 56-265.1 of the Code of Virginia, 1950 as amended, or its successor statute.

*Public water.* Any system of pipelines or conduits, pumping stations, force mains, water treatment plants, and all other constructions, devices, and appliances appurtenant thereto, used for providing water services, which is owned or controlled by the county or any authority or district created thereby, or any municipal corporation or other public entity created thereby located within the boundaries of the county, or which is owned and operated by a public utility as defined in Virginia Code section 56-265.1 of the Code of Virginia, 1950 as amended, or its successor statute.

*Public works director.* The director of public works, or designated agent, of the county.

*Right-of-way.* A strip of land acquired by grant, reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary or storm sewer, and other similar uses, generally, for the right of one to pass over the property of another.

*Setback line.* The minimum distance into any lot measured from the property line at the location where the lot meets minimum width required for building.

*Shall.* The word "shall" means mandatory.

*Stormwater management.*

- (1) The control, regulation, or treatment of stormwater runoff, especially relating to the effects of land development on the natural hydrology and the facilities associated therewith, including but not limited to stormwater retention and detention ponds, storm sewers, drainage easements and other drainage facilities.
- (2) A program which deals with quantity and quality of stormwater runoff.

*Street.* The principal means of access to abutting properties.

*Street or alley, public use of.* The unrestricted use of a specified area or right-of-way for ingress and egress to two (2) or more adjoining properties.

*Street, dead-end.* A street with only one (1) outlet and having a cul-de-sac with an appropriate width for a safe and convenient reverse traffic movement.

*Street, dual.* A street with opposing lanes separated by a median strip or center island, which cannot be crossed except at designated locations.

*Street, major.* A heavily traveled thoroughfare or highway that carries a large volume of through traffic, or anticipated traffic exceeding five hundred (500) vehicles per day.

*Street, minor.* A street that is used primarily as a means of public access to the abutting properties with anticipated traffic of less than five hundred (500) vehicles per day.

*Street, service drive.* A public right-of-way generally parallel and contiguous to a major highway, designed to promote safety by regulating ingress and egress to the right-of-way by providing safe and orderly points of access to the highway.

*Street standards.* Virginia Department of Transportation Subdivision Street Requirements and all other standards incorporated by reference, as amended from time to time.

*Street width.* The total width of the strip of land dedicated or reserved for public travel, including roadways, curbs, gutters, sidewalks and planting strips.

*Subdivide.* To divide, partition or develop any parcel into two (2) or more lots or parcels in compliance with this chapter. The exceptions set out in section 16-9 shall be subject only to those requirements of said section.

*Subdivider.* Any one or more individuals, corporations, partnerships, limited liability companies or other legally recognized entity, owning any land to be divided, partitioned or developed into more than one lot or parcel.

*Subdivision.* The division, partition, or development of land, whether by deed, metes and bounds description, devices, intestacy, lease, map, plat or other recorded instrument.

*Utilities.* Distribution of service connection facilities and appurtenances thereto for gas; electricity; water; sanitary sewer; stormwater management; and communications.

*Utility standards.* Applicable regulations adopted by Virginia regulatory agencies

*VDOT.* Virginia Department of Transportation.  
(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 95-5, 5-24-95; P.C. Ord. No. 03-02, 6-11-03; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-4. Application of chapter.**

This chapter and all regulations adopted hereunder shall apply to all subdivision of land located within the unincorporated areas of the county.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-5. Agent--Appointment and duties.**

(a) The agent shall administer this chapter. In so acting, the agent shall be considered the agent of the board, and approval or disapproval by the agent shall constitute approval or disapproval as though it were given by the board.

(b) The agent shall perform such duties regarding subdivisions and subdividing as are set forth in this chapter or in applicable sections of the Code of Virginia.

(c) In the performance of the duties, the agent may call for opinions or decisions, either verbal or written, from other departments, agencies, or other government organizations in considering details of any submitted plat. This authority by the agent shall have particular reference to the highway engineer, health official, fire chief, public works director, and county attorney.

(d) In addition to the regulations herein contained for the platting of the subdivisions, the agent may, from time to time, establish procedures deemed necessary for the administration of this chapter.  
(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-6. Interpretation, conflict and severability.**

(a) In interpretation and application, the requirements of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, convenience and general welfare.

(b) This chapter is not intended to interfere with, abrogate or annul any order of a court of competent jurisdiction, statute, regulation or other provision of law. Where any provision of this chapter imposes restrictions different from those imposed by any other provision of county ordinances or regulations or other provisions of law, the provisions which are more restrictive or impose higher standards shall control, unless the intent is clearly otherwise.

(c) This chapter is not intended to abrogate any legally enforceable easement, covenant or any other private agreement or restriction; provided that, where the provisions of this chapter are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement or restriction, the requirements of this chapter shall govern. Where the provisions of the easement, covenant or private agreement or restriction impose duties and obligations more restrictive, or higher standards, than the requirements of this chapter, and such private provisions are not inconsistent with this chapter or determinations thereunder, then such private provisions shall be operative and supplemental to this chapter and determinations made thereunder; provided, that no restrictive covenants shall be enforced by the county.

(d) Should any section or provision of this chapter be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, nor the validity of any other section or provision of the ordinance other than the one so declared invalid.  
(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-7. Chapter does not affect prior actions, rights, etc.**

This chapter shall not be construed as abating any legal action now pending under, or by virtue of, the

prior existing subdivision ordinance or regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person or as waiving any right of the county under any section or provision existing at the time of adoption of the ordinance from which this chapter is derived, or as vacating or annulling any rights obtained by any person by lawful action of the county, except as shall be expressly provided for in this chapter.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-8. Compliance.**

(a) Wherever any subdivision of land is proposed the subdivider shall apply for and secure approval of such proposed subdivision in accordance with the procedures set forth in this chapter.

(b) No person shall subdivide land without making and recording a plat of such subdivision and without fully complying with the provisions of this chapter and with the provisions of Article 6, Chapter 22, Title 15.2 (sec. 15.2-2240 et seq.) of the Code of Virginia, as amended.

(c) No deed involving a division of land and no subdivision plat shall be recorded unless and until it has been submitted to and approved by the agent in accordance with the requirements of this chapter.

(d) No person shall offer for sale, sell or transfer any land of a subdivision, before such plat has been duly approved and recorded as provided herein, unless such land is a lot of record created prior to the adoption of a subdivision ordinance applicable thereto; provided, that nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred for the passage of title as between the parties to the instrument. Divisions of land under section 16-9(b) may be offered for sale prior to approval of the division but may not be sold or transferred until deed is approved by the agent as required by this Code. (P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 95-6, 5-24-95; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-9. Exceptions to subdivision.**

The agent may permit divisions of land into two (2) parcels as set forth below when the resultant parcels conform to the chapter 17 (zoning ordinance) requirements of the zoning district in which the parcels are located and when such divisions do not circumvent the intent of this chapter as stated in section 16-2. Minimum lot size in agriculturally zoned districts shall be one (1) acre except in A-2 if the property is served by public sewer, the minimum lot size shall be twenty thousand (20,000) square feet, and the newly created parcel shall be connected to the public sewer. When the proposed division would create a residual parcel of less than five (5) acres, the residual parcel shall meet the access, health and safety standards as set out in this chapter. No divisions of land shall be approved that would make a lot nonconforming or which would make an already nonconforming lot more nonconforming.

(a) *Adjoining transfers or lot consolidations.*

(1) The agent may permit a division conveying a portion of land to an immediately adjoining property owner or consolidating contiguous parcels owned by the same property owner provided the following requirements are met.

(A) A proposed adjoining transfer or lot consolidation located within an approved subdivision

as described in section 16-48 must meet the requirements of that section.

(B) The deed submitted to the agent for approval shall contain language stating:

1. "This conveyance is an adjoining land transfer. The recordation of this deed in accordance with the subdivision regulations of Rockingham County shall operate to vacate the common property line shared by the tract to be conveyed and the tract to which it is an adjoining transfer."
2. "Land obtained through an adjoining transfer may not be reconveyed as a separate parcel, nor may it be included as a portion of a parcel to be divided from the combined parcel created by the adjoining transfer as described in 16-9(a)(1) above for a period of five (5) years in the A-1 district or three (3) years in the A-2 district, except that land obtained through an adjoining transfer may be conveyed through another adjoining transfer without meeting the above-required waiting period".

(C) The plat accompanying the deed submitted to the agent shall include the following:

1. The plat shall contain language stating "this conveyance is an adjoining transfer and the combined parcels shall be treated as one parcel for zoning and subdivision purposes.
2. The property line to be vacated shall be indicated on the plat by a broken line, identified with the words "property line hereby vacated" printed beside the vacated line.

(b) *Non-family divisions:* In the agriculturally zoned districts the agent may permit one (1) division of a parcel into two (2) parcels with the following stipulations:

(1) *Prime agricultural (A-1) district.*

- (a) On parcels of land that are greater than forty (40) acres, one non-family division shall be permitted every five (5) years except as permitted under section 16-9(b)(1)(h) in accordance with section 16-9(b)(1)(c). However, either the parent parcel or the newly created parcel shall be at least forty (40) acres and shall not be reduced below forty (40) acres. If the newly created parcel is forty (40) acres, and the parent tract becomes less than forty (40) acres, there shall be no further non-family division rights of the parent tract.
- (b) On parcels of forty (40) acres or less created after August 23, 2004, there shall be no non-family divisions permitted except as permitted under section 16-9(b)(1)(h). The deed shall contain language stating that no further non-family divisions shall be permitted.
- (c) A special use permit for a residence has been approved on any parcel that is not improved with a residence. This would include either the newly divided parcel or the parent tract.

- (d) The parent tract shall not have been the subject of a previous division under paragraph (b) or (c) of this section 16-9 within the last five (5) years.
- (e) Adequate road access shall be provided for each resulting parcel as approved by the highway engineer. If the parcel has insufficient frontage along a state-maintained road a right-of-way meeting the requirements of either section (A) or (B) below shall be provided to serve the divided parcels. Any right-of-way created shall meet the sight distance requirements of the VDOT Minimum Standards of Entrance to State Highways. VDOT must notify the agent in writing of sight distance approval in order for the division to be approved.
  - (A) Fifty-foot right-of-way meeting the following standards.
    - (1) There may be an unlimited number of parcels on a right-of-way meeting one of the following standards:
      - (a) If the fifty-foot right-of-way is planned to be developed currently or in the future for acceptance into the state secondary highway system, the right-of-way shall be constructed to meet the geometric requirements established by VDOT's Subdivision Street Requirements.
      - (b) If the right-of-way is planned to be developed without acceptance into the state secondary highway system, the right-of-way shall meet minimum fire protection requirements as promulgated by the fire chief. A "private street connection" shall be constructed to any connecting VDOT maintained street in accordance with Standard Private Subdivision Road/Street Entrance of the VDOT Minimum Standards of Entrances to State Highways. In the event there are no future plans to take the rights-of way into the state secondary highway system for maintenance, language shall be included in the deeds of all affected parcels indicating that no request will be made of the county or VDOT to take the right-of way into the state secondary highway system until all requirements of VDOT's Subdivision Street Requirements are met.
    - (2) No right-of-way grade shall exceed a ten (10) percent maximum unless an exception is made due to terrain or other mitigating circumstances in which case the grade shall be approved by VDOT and the fire chief.
    - (3) Entrance approval shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing fifty-foot entrance, the agent shall receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvement required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed

approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the county until the agent receives verification from VDOT that the entrance work has been completed.

(B) Twenty-foot right-of-way meeting the following standards.

- (1) There shall be no more than two (2) parcels per right-of-way.
- (2) If a division is requested that would increase the number of parcels on a right-of-way to more than two (2), the right-of-way must be improved to meet the requirements of section 16-9(b)(1)(d)(A).
- (3) Entrance approval shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing twenty-foot entrance, the agent must receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvement required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the county until the agent receives verification from VDOT that the entrance work has been completed.

(f) An adequate sanitary waste disposal system shall have been approved by the health official. Where use of a septic system is proposed, such approval shall include a reserve drainfield capable of meeting one hundred (100) percent of the septic requirements of the development for which the parcel is approved by the health official. The area set aside for septic drainfield use shall be clearly shown on the certified plat submitted to the agent for approval, and the plat shall contain a notation that the area so indicated shall remain open and available for use as a septic drainfield. A copy of said septic permit or certification letter shall be submitted to the agent prior to approval of the requested division. If the division involves a residence on either the lot to be divided or the residue parcel, and that residence was constructed after November 14, 1990, when the county enacted the one hundred (100) percent septic reserve requirement for divisions, that residence shall also be required to have one hundred (100) percent septic reserve area. Evidence of that reserve area shall be submitted to the agent prior to approval of the new division. Such approval shall not be required when:

- (1) The proposed parcel will be served by a community sewerage system with adequate capacity; or
- (2) A parcel of five (5) acres or more when the deed contains language stating that the parcel has not received approval for sanitary waste disposal and that such approval shall be obtained prior to the issuance of building permits for structures requiring such sanitary waste facilities.

- (g) No division of land shall be approved which would allow the new parcel to be served by pit privies. Additionally, if the parent tract is served by a pit privy, no divisions of land shall be approved from that parent tract until such time as an approved septic drainfield permit with one hundred (100) percent reserve area has been obtained and said drainfield installed to serve the parent tract and the agent has been provided with an operation permit issued by the health official for the newly installed system.
- (h) If there is an existing septic system on the parcel to be created or on a residual parcel containing less than five (5) acres, there shall be a statement on the plat giving the date of the septic system operation permit.
- (i) A one time only grantor to self division from the larger tract that had its own tax parcel number as of August 23, 2004 shall be permitted. A one time only division means that when a division is permitted under this 16-9(1)(h), no further grantor to self divisions shall be permitted on the subject parcel or on any other parcel owned by the grantor. The residual and resulting parcels must meet all other requirements of this section.

(2) *General agricultural (A-2) district.*

- (a) Any parcels of six (6) acres or less created after August 23, 2004 shall have no further non-family division rights. The deed shall contain language stating that no further non-family divisions shall be permitted.
- (b) The parent tract shall not have been the subject of a previous division under paragraph (b) or (c) of this section 16-9 within the last three (3) years.
- (c) Adequate road access shall be provided for each resulting parcel as approved by the highway engineer. If the parcel has insufficient frontage along a state-maintained road a right-of-way meeting either section (A) or (B) below shall be provided to serve the divided parcels. Any right-of-way created shall meet the sight distance requirements of the VDOT Minimum Standards of Entrance to State Highways. VDOT must notify the agent in writing of sight distance approval in order for the division to be approved.
  - (A) Fifty-foot right-of-way meeting the following standards.
    - (1) There may be an unlimited number of parcels on a right-of-way meeting one of the following standards:
      - (a) If the fifty-foot right-of-way is planned to be developed currently or in the future for acceptance into the state secondary highway system, the right-of-way shall be constructed to meet the geometric requirements established by VDOT's Subdivision Street Requirements.
      - (b) If the right-of-way is planned to be developed without acceptance

into the state secondary highway system, the right-of-way shall meet minimum fire protection requirements as promulgated by the fire chief. A "private street connection" shall be constructed to any connecting VDOT maintained street in accordance with Standard Private Subdivision Road/Street Entrance of the VDOT Minimum Standards of Entrances to State Highways. In the event there are no future plans to take the rights-of way into the state secondary highway

- (2) No right-of-way grade shall exceed a ten (10) percent maximum unless an exception is made due to terrain or other mitigating circumstances in which case the grade shall be approved by VDOT and the fire chief.
- (3) Entrance approval shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing fifty-foot entrance, the agent shall receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvement required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the county until the agent receives verification from VDOT that the entrance work has been completed.

(B) Twenty-foot right-of-way meeting the following standards.

- (1) There shall be no more than two (2) parcels per right-of-way.
- (2) If a division is requested that would increase the number of parcels on a right-of-way to more than two (2), the right-of-way must be improved to meet the requirements of section 16-9(b)(2)(d)(A).
- (3) Entrance approval shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing twenty-foot entrance, the agent shall receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvement required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the county until the agent receives verification from VDOT that the entrance work has been completed.

- (d) An adequate sanitary waste disposal system shall have been approved by the health official. Where use of a septic system is proposed, such approval shall include a reserve drainfield capable of meeting one hundred (100) percent of the septic requirements of the

development for which the parcel is approved by the health official. The area set aside for septic drainfield use shall be clearly shown on the certified plat submitted to the agent for approval, and the plat shall contain a notation that the area so indicated shall remain open and available for use as a septic drainfield. A copy of said septic permit or certification letter shall be submitted to the agent prior to approval of the requested division. If the division involves a residence on either the lot to be divided or the residue parcel, and that residence was constructed after November 14, 1990, when the County enacted the one hundred (100) percent septic reserve requirement for divisions, that residence shall also be required to have one hundred (100) percent septic reserve area. Evidence of that reserve area shall be submitted to the agent prior to approval of the new division. Such approval shall not be required when:

- (1) The proposed parcel will be served by a community sewerage system with adequate capacity; or
  - (2) A parcel of five (5) acres or more when the deed contains language stating that the parcel has not received approval for sanitary waste disposal and that such approval shall be obtained prior to the issuance of building permits for structures requiring such sanitary waste facilities.
- (e) No division of land shall be approved which would allow the new parcel to be served by pit privies. Additionally, if the parent tract is served by a pit privy, no divisions of land shall be approved from that parent tract until such time as an approved septic drainfield permit with one hundred (100) percent reserve area has been obtained and said drainfield installed to serve the parent tract and the agent has been provided with an operation permit issued by the health official for the newly installed system.
  - (f) If there is an existing septic system on the parcel to be created or on a residual parcel containing less than five (5) acres, there shall be a statement on the plat giving the date of the septic system operation permit.
  - (g) A one time only grantor to self division from the larger tract that had its own tax parcel number as of August 23, 2004 shall be permitted. A one time only division means that when a division is permitted under this 16-9(2)(g), no further grantor to self divisions shall be permitted on the subject parcel or on any other parcel owned by the grantor. The residual and resulting parcels must meet all other requirements of this section.

All other requirements of this section shall be met.

(c) *Family divisions.* In the agriculturally zoned districts a single parcel of land may be divided for conveyance to an immediate family member, provided that the grantee has not previously received any land from an immediate family member under the provisions of this section 16-9(c). An immediate family member is a natural or legally defined child, grandchild, parent, grandparent, or sibling of the grantor. If the property owner is a limited liability company whose membership consists entirely of members of an immediate family, the limited liability company may divide the lot or parcel for the purpose of sale or gift to its members in accordance with this subsection. There shall be no division approved under this paragraph (c) that is determined

by the agent to be an attempt to circumvent the intent of either chapter 16 (subdivision), as stated in section 16-2, or chapter 17 (zoning), including but not limited to any attempt by the grantor to further develop land approved under this paragraph for the benefit of any party other than the grantee or profit motivated divisions for short-term investment purposes. Divisions of land made under the provisions of this paragraph (c) shall be subject to the following requirements:

- (1) Divisions under this section 16-9(c) shall not be subject to the waiting periods set forth in section 16-9(b) of this code;
- (2) In the A-1 district any parcel of forty (40) acres or less created under this section 16-9(c) after August 23, 2004 shall have no non-family division rights under section 16-9(b). The deed shall contain language stating that no non-family divisions shall be permitted.
- (3) In the A-2 district any parcel of six (6) acres or less created under this section 16-9(c) after August 23, 2004 shall have no non-family division rights under section 16-9(b). The deed shall contain language stating that no non-family divisions shall be permitted.
- (4) Each deed submitted to the agent for approval shall be accompanied by a notarized affidavit stating that the grantee has not received any prior conveyance of land under the provisions of this section 16-9(c).
- (5) The deed and plat submitted to the agent for approval shall contain language stating that the conveyance is a family division and specifying the relationship between the grantor and grantee. The deed shall also contain language stating that the land being conveyed may not be reconveyed for a period of three (3) years, from the date on which the agent approves the division except there shall be no waiting period if the parcel or a portion of the parcel obtained through this section 16-9(c) is conveyed as an adjoining transfer. Notwithstanding provisions to the contrary, this subparagraph 16-9(c)(5) shall not prohibit a foreclosure or judicial sale, or an encumbrance with a deed of trust or mortgage, or a sale and transfer of such parcel in case of a foreclosure under a deed of trust or mortgage.
- (6) Adequate road access shall be provided for each resulting parcel as approved by the highway engineer. If the parcel has insufficient frontage along a state maintained road, a right-of-way meeting either section A or B below shall be provided to serve the divided parcels. Any right-of-way created shall meet the sight distance requirements of the VDOT Minimum Standards of Entrance to State Highways. VDOT must notify the Agent in writing of sight distance approval in order for the division to be approved.

A. Fifty-foot right-of-way meeting the following standards:

- (1) There may be an unlimited number of parcels on a right-of-way meeting one of the following standards:
  - (a) If the fifty (50) foot right-of-way is planned to be developed currently or in the future for acceptance into the state secondary highway system, the right-of-way shall be constructed to meet the geometric requirements

established by VDOT's Subdivision Street Requirements.

- (b) If the right-of-way is planned to be developed without acceptance into the state secondary highway system, the street shall meet minimum fire protection requirements as promulgated by the fire chief. A "private street connection" shall be constructed to any connecting VDOT maintained street in accordance with Standard Private Subdivision Road/Street Entrance of the VDOT Minimum Standards of Entrances to State Highways. In the event there are no future plans to take the rights-of-way into the state secondary highway system for maintenance, language shall be included in the deeds of all affected parcels indicating that no request will be made of the county of VDOT to take the right-of-way into the state secondary highway system until all requirements of VDOT's Subdivision Street Requirements are met.
  - (2) No right-of-way grade shall exceed a ten (10) percent maximum unless an exception is made due to terrain or other mitigating circumstances in which case the grade shall be approved by VDOT and the fire chief.
  - (3) Entrance permits shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing fifty-foot entrance, the agent shall receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvement required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the county until the agent receives verification from VDOT that the entrance work has been completed.
- (B) Twenty-foot right-of-way meeting the following standards.
- (1) Divisions of land under this section 16-9(c)(6)(B) shall be exempt from the number of parcels on a right-of-way and any division under this section that increases the number of parcels to more than two (2) shall not be required to improve the right-of-way to meet the requirements of section 16-9(c)(6)(A).
  - (2) Entrance permits shall be submitted to the agent prior to approval of the requested division. If VDOT approves the use of an existing twenty-foot entrance, the agent must receive a letter from the highway engineer stating the existing entrance is adequate for the additional division and stipulating any improvements required by VDOT for use of the entrance. The property shall be served by the entrance shown on the plat accompanying the deed approved by the agent. If the division involves a new entrance or upgrades to the existing entrance, no certificates of occupancy shall be issued by the county until such time as the agent receives verification from VDOT that the entrance work has been completed.

- (7) An adequate sanitary waste disposal system shall have been approved by the health official. Where use of a septic system is proposed, such approval shall include a reserve drainfield capable of meeting one hundred (100) percent of the septic requirements of the development for which the parcel is approved by the health official. The area set aside for septic drainfield use shall be clearly shown on the certified plat submitted to the agent for approval, and the plat shall contain a notation that the area so indicated shall remain open and available for use as a septic drainfield. A copy of said septic permit or certification letter shall be submitted to the agent prior to approval of the requested division. If the division involves a residence on either the lot to be divided or the residue parcel, and that residence was constructed after November 14, 1990, when the county enacted the one hundred (100) septic reserve requirements for divisions, that residence shall also be required to have one hundred (100) percent septic reserve area. Evidence of that reserve area shall be submitted to the agent prior to approval of the requested division. Such approval shall not be required when:
- (a) The proposed parcel will be served by a community sewerage system with adequate capacity; or
  - (b) A parcel of five (5) acres or more when the deed contains language stating that the parcel has not received approval for sanitary waste disposal and that such approval shall be obtained prior to the issuance of building permits for structures requiring such sanitary waste facilities.
- (8) If there is an existing septic system on the parcel to be created or on a residual parcel containing less than five (5) acres, there shall be a statement on the plat giving the date of the septic system operation permit.
- (9) No division of land shall be approved which would allow the new parcel to be served by pit privies. Additionally, if the parent tract is served by a pit privy, no divisions of land shall be approved from that parent tract until such time as an approved septic drainfield with one hundred (100) percent reserve area has been obtained and said drainfield installed to serve the parent tract and the agent has been provided with an operation permit issued by the health official for the newly installed system.
- (d) *Transfers by inheritance or court order.*
- (1) The division of land by the circuit court of the county in a decree of divorce or an order in a partition suit in which each of the parties is an owner by inheritance, or a partitioning of land by parties each of whom is an owner by inheritance, shall be exempt from the provisions of this chapter; provided, however, that each of the resulting parcels front on a state maintained road or has adequate access to a state maintained road over a recorded right-of-way. A copy of such order, a copy of the probated will conveying such property, or a copy of a duly filed list of heirs shall be submitted to the agent.
- (2) Notwithstanding the provisions of subparagraph (d)(1) above, requiring each owner to be an owner by inheritance, if one (1) or more of the parties to the partition suit, or one (1) or more of the parties to the partition deed, acquired his interest by conveyance, such ownership shall not

impair the exemption provided under said subparagraph, provided such conveyance does not increase the number of owners seeking a partition beyond the number of owners created by inheritance.

- (3) For the purpose of this subsection, "inheritance" means transfer of property by will or intestate succession.

- (e) *Reserved.*

(f) *Divisions for deeds of trust.* The agent may permit a division of land conveying a parcel in trust for the sole purpose of securing an indebtedness to a regulated commercial lender. Only one (1) such division of any parcel identified by a separate tax map number shall be permitted at any time. In the event of default, the holder of the note secured by the deed of trust shall have authority to enforce the lien of such deed of trust in any manner permitted by the laws of the Commonwealth of Virginia.

- (1) Prior to recordation, the plat shall be submitted for approval to the subdivision agent, and such approval shall indicate that the execution and delivery of the deed of trust does not violate any requirements of the county's zoning ordinance. In its title, the plat shall state that the conveyance is for deed of trust purposes.
- (2) The landowner shall obtain a separate tax map designation and tax billing from the commissioner of the revenue and notify the commissioner of the revenue and the subdivision agent upon the satisfaction and release of any such deed of trust. The tax map designation for a division under this paragraph (f) shall be the tax map designation of the parent tract with the suffix "dt" added to it.
- (3) A division of land approved under this paragraph (f) shall not constitute a subdivision of land until there is a conveyance by or to the holder of the note or its trustees and only upon default.
- (4) Any such conveyance by or to the holder of the note or its trustee shall be reported, before recordation, to the subdivision agent; and no subsequent division of the land so conveyed or of the parent tract shall be permitted under paragraph (b) of this section 16-9 until the waiting period of five (5) years has been satisfied.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 8-87, 8-12-87; P.C. Ord. No. 15-90, 11-14-90; P.C. Ord. No. 2-91, 3-27-91; P.C. Ord. No. 10-92, 6-24-92; P.C. Ord. No. 19-92, 10-28-92; P.C. Ord. No. 27-92, 12-16-92; P.C. Ord. No. 28-92, §§ 1, 2, 4, 12-16-92; P.C. Ord. No. 13-93, 11-10-93; P.C. Ord. No. 95-7, 5-24-95; P.C. Ord. No. 95-8, 5-24-95; P.C. Ord. No. 96-15, 9-25-96; P.C. Ord. No. 97-6, 4-23-97; P.C. Ord. No. 97-12, 7-23-97; P.C. Ord. No. 97-13, 7-23-97; P.C. Ord. No. 98-11, 9-23-98; P.C. Ord. No. 04-06, 6-23-04; P.C. Ord. No. 05-03, 5-25-05)

#### **Sec. 16-9.1. Same--deed and plat required.**

A deed accurately describing the parcel to be divided, and with each deed the original and one copy of a plat prepared by a certified land surveyor licensed by the Commonwealth of Virginia, showing a division of land shall be submitted for approval prior to recordation. The plat shall include, at a minimum, the following as to the divided parcel and as to the residual parcel if it is less than five (5) acres:

- (a) That the plat meets the standard for plats as adopted under § 42.1-82 of the Virginia Public Records Act or any successor statute thereto;
- (b) In the first line of its title, in lettering that is at least as large and at least as heavy as any other lettering on the plat, that the resulting parcel is being divided from a larger tract;
- (c) The tax map identification number of each tract involved in the division and each adjoining parcel;
- (d) The current zoning;
- (e) A north arrow;
- (f) The date of preparation;
- (g) If the division creates a residual parcel of less than five (5) acres, both parcels shall be surveyed and shown on the plat except with regard to the residual parcel of less than five (5) acres, if the plat is based on a previous plat, the surveyor shall provide a reference to the date and recording information of the previous plat and a statement that an actual field survey of the residual parcel was not made;
- (h) The plat shall also include a vicinity sketch map at a scale of one (1) inch equals two thousand (2,000) feet;
- (i) A statement of the floodplain designation shall be included with the one hundred-year floodplain boundary being shown on the plat within the lot boundaries in the event any portion of the parcel falls within the one hundred-year floodplain. Where applicable, the floodway shall be shown with a statement that this is according to the FIRM maps. If there is no floodplain, the surveyor shall include a statement of such on the plat;
- (j) Identification of any grave, object or structure marking a place of human burial located on the tract or parcel of land to be divided;
- (k) The location, size, and setbacks of all structures on both parcels within thirty-five (35) feet of the new property line. All poultry houses shall be one hundred fifty (150) feet from the new property line except poultry houses may be reduced up to seventy-five (75) feet from the new property line with notarized consent of the adjoining landowner. The plat shall also show any dwellings on the parcel being conveyed by the transfer and the dwellings remaining on the parent tract or shall include a statement of the number of dwelling units on land being transferred, number of dwelling units on the parcel to which such tract is being joined (if an adjoining transfer), and the number of dwelling units on the residual parcel.
- (l) On newly divided parcels with an existing septic and drainfield on the parcel being divided and/or on residue parcels of less than five (5) acres, if the septic was installed prior to November 14, 1990, surveyor may put a statement to that effect on the plat. However, if the septic was

installed after November 14, 1990, the septic and one hundred percent (100) percent reserve area shall be shown as approved by the health department.

- (m) Setback line at point where parcel first meets the minimum required setback width; and
- (n) Street name, state route number and road width shall be shown for any state-maintained road that is shown on the plat.
- (o) Any rights-of-way providing access across subject property that serve either this property or adjoining properties.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 2-91, 3-27-91; P.C. Ord. No. 28-92, § 3, 12-16-92; P.C. Ord. No. 8-93, 8-25-93; P.C. Ord. No. 04-06, 6-23-04; P.C. Ord. No. 05-03, 5-25-05)

#### **Sec. 16-10. Variances.**

When the subdivider can show that conforming with the provisions of these standards would cause unnecessary hardship, or where topographical or other conditions peculiar to the site make compliance impracticable, and if, in addition, the agent is of the opinion that a departure from any provisions of this chapter would not destroy the intent of its provisions, the agent shall submit the proposed variance in writing to the board, the county administrator, county attorney, highway engineer, health official, fire chief, public works director; and community development director and unless any of such entities oppose in writing such proposed variance within thirty (30) days of the date appearing on such notice, such variance may be granted.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-11. Amendments.**

For the purpose of promoting the public health, safety, convenience and general welfare, the commission may, or at the request of the board shall, prepare and recommend amendments to this chapter. The procedure for such amendment shall be the same as for the preparation and recommendation and approval and adoption of the original ordinance from which this chapter is derived; provided, that no such amendment shall be adopted by the board without referring the proposed amendment to the commission for recommendation, nor until sixty (60) days after such referral, if no recommendation is made by the commission.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 98-4, 5-27-98; P.C. Ord. No. 04-06, 6-23-04)

### **ARTICLE II.**

#### **MINIMUM REQUIREMENTS**

#### **Sec. 16-12. Generally.**

The provisions of this article prescribe the minimum requirements for the subdivision of land in the county. Such requirements may not be waived, except as specifically provided in this article.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-13. Subdivision name.**

Subdivisions shall be named according to the established procedures set forth in the road/street and subdivision naming manual as amended.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 96-6, 3-13-96; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-14. Street names.**

(a) Streets shall be named according to the established procedures set forth in the road/street and subdivision naming manual as amended.

(b) Temporary street identification signs shall be placed at each intersection by the developer prior to any construction beginning in the subdivision. The developer shall contact the agent when temporary signs have been erected. No building permits shall be issued within a subdivision prior to verification by the agent that the signs have been erected. Developer shall be responsible for keeping these signs in place until such time as permanent signs are erected.

(c) Permanent signs conforming to standard county specifications shall be erected by the county at the developer's expense, and the developer shall pay the county for the cost of the signs prior to the agent signing the final plat. If the cost of signs increases, and the funds paid by the developer to the county are insufficient to cover the cost of the signs, the developer shall pay the additional funds prior to the bond being released by the county.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 96-6, 3-13-96; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-15. Streets--General standards of design and maintenance guarantees.**

(a) The arrangement of streets in new subdivisions shall be interconnecting when feasible and make provision for the continuation of planned, existing or platted streets in adjoining areas. The street arrangement shall not cause any unnecessary hardship to owners of adjoining property where they plat their own land and seek to provide for convenient access to it. Proposed streets shall be extended by dedication to the boundary line of at least one (1) adjoining property. Wherever possible, streets should intersect at right angles. On all hillside land, streets running with contours shall be required to intersect at angles of not less than sixty (60) degrees, unless approved by the highway engineer.

(b) Whenever a proposed subdivision contains or is adjacent to a limited access highway or street, provision shall be made for a service drive or marginal street approximately parallel to such right-of-way at a distance suitable for an appropriate use of the land between such highway and the proposed subdivision. Such distances shall be determined with due consideration of the minimum distance required for ingress and egress to the main thoroughfare. The right-of-way of any major highway or street projected across any railroad, limited access highway to expressway shall be of adequate width to provide for the cuts or fills required for any future separation of grades.

(c) Major streets shall approach major or minor streets at an angle of not less than eighty (80) degrees, unless the agent, upon approval by the highway engineer, shall approve a lesser angle of approach for reasons of contour, terrain or matching of existing patterns.

(d) Except as provided for in the RR-1, R-4, R-5, MH-1 and PCD districts set forth in chapter 17 (zoning), all subdivision streets and roads shall be constructed in accordance with the VDOT road and bridge

specification standards.

- (e) Dead-end streets shall be designed as follows:
  - (1) Dead-end streets shall not exceed eight hundred (800) feet or be less than two hundred (200) feet, and shall meet the following requirements:
    - a. Dead-end streets shall terminate in an approved cul-de-sac with pavement radii of not less than forty-five (45) feet and a right-of-way radii of not less than sixty (60) feet.
    - b. The length shall be measured from the end of the cul-de-sac to the closest intersection, which provides a means of egress from the subdivision, either directly or indirectly (see figure 1).
    - c. Dead-end streets that provide direct means of egress shall do so by connecting to a street that provides a direct means of egress (see figure 1).

GRAPHIC UNAVAILABLE: Figure 1

- (2) Lengths of greater than eight hundred (800) feet shall be allowed if the following conditions are met:
  - a. Dead-end streets with lengths of greater than eight hundred (800) feet shall require approval, prior to submission in writing, by the fire chief, VDOT, and director of public works;
  - b. An easement from the turnaround to another street provides a looped water system or the system is otherwise looped; unless otherwise approved by the director of public works.
  - c. The dead-end street is designed as a dual street with a landscaped median over its entire length, which divides the dead-end street into two (2) distinct and separate lanes. The construction of the lanes, right-of-way and median shall be constructed in accordance with VDOT standards. Median breaks shall be provided at every intersection and at other points at intervals of no more than three hundred (300) feet or as otherwise specified by the reviewing parties. Median breaks shall be designed to VDOT standards; and
  - d. Fire hydrants shall be placed as required by the fire chief.
  - e. In recognition of the additional fire protection requirements incorporated into commercial and industrial structures, the director of community development, in consultation with the fire chief, may waive the median requirement for dead end streets in subdivisions located in business zoning. Subdivisions in industrial zoning are exempted from the requirements in 16-15(e)(2).
- (f) Dead-end alleys shall not be permitted.

(g) Except as provided in the RR-1, R-4, R-5, MH-1 and PCD districts set forth in chapter 17 (zoning), there shall be no private streets platted in any subdivision, and every subdivided property shall be served from a publicly dedicated street, which shall be taken into the state system by VDOT. There shall be no reserve strips controlling access to streets.

(h) New streets entering subdivisions shall meet the sight distance requirements of the VDOT minimum standards of entrance to state highways. If sight distance cannot be met, VDOT shall notify the agent in writing, and the subdivision shall not be approved.

(i) Grades on all streets shall not exceed a ten (10) percent maximum unless an exception is approved by both VDOT and the fire chief due to terrain or other mitigating circumstances. Written approval from VDOT and the fire chief of such exception shall be submitted to agent prior to approval of the subdivision.

(j) Minimum pavement width shall be 20 feet on shoulder and ditch typical section subdivision streets. Minimum pavement width for curb and gutter subdivision streets with projected traffic up to four hundred (400) vehicles per day shall be thirty-four (34) feet. Minimum pavement width for curb and gutter streets with projected traffic greater than four hundred (400) vehicles per day shall be in accordance with VDOT subdivision street requirements. Minimum right-of-way on all subdivision streets shall be fifty (50) feet. Minimum right-of-way on street cul-de-sac's shall be sixty (60) feet radius with fifty (50) feet radius paved.

(k) A ten-foot stormwater management and utility easement shall be created on all lot lines of all subdivision lots where practical. All roadway drainage shall be conveyed in a typical roadway ditch parallel to the roadway in both cut and fill sections. To prevent pooling of water in the pavement, roadways shall have a minimum grade to their side of not less than one-half (0.5) percent. Drainage shall be provided to protect a primary road where it intersects with a secondary road.

(l) No streets shall be constructed with a curvature radius of less than one hundred (100) feet measured at the center line.

(m) Improved gravel shoulder width shall be a minimum of four (4) feet on each side of the street. On streets with a projected average daily traffic volume in excess of one thousand (1,000) vehicles per day, shoulders shall be constructed to the same specifications as the street.

(n) Fire department access shall be provided and maintained to all structures undergoing construction, alteration or demolition. Fire department access roadways shall be of an approved surface material capable of providing emergency vehicles access and support at all times, and shall be a minimum of 20 feet in unobstructed width. The access roadway shall provide a minimum turning radius of 50 feet and a minimum vertical clearance of thirteen and one-half (13 1/2) feet. No permits shall be issued until such time as the fire chief has notified the agent in writing that such access has been provided.

(o) Application to have a street accepted into the state secondary highway system may be completed by the developer and submitted to the county and VDOT within three (3) months after the county has issued a certificate of occupancy for the third structure addressed on said street and shall be completed and submitted to the county and VDOT within three (3) months after there are residences on seventy-five (75) percent of the lots in the subdivision or in a section of the subdivision when developed in sections. At that time the street shall meet VDOT secondary road standards.

(p) In the event that the county has accepted the dedication of a street for public use by approval of a recorded subdivision plat, and such road, upon its completion, is not accepted into the VDOT secondary highway system, prior to the release of the improvements bond, the subdivider or developer shall be required to furnish the county with a maintenance and indemnifying bond, either by cash escrow or letter of credit, with surety satisfactory to the agent in an amount sufficient for and conditioned upon, the maintenance of such road until such time as it is accepted into the state secondary highway system. As a minimum the amount of the maintenance and indemnifying bond shall be twenty-five (25) percent of the amount of the original assurance provided to the county at the time the final plat was approved. The amount of the maintenance bond shall be determined by the agent, public works director and highway engineer. In any event when the third certificate of occupancy for a structure addressed on a street is issued, the developer must comply with section 16-15(o) of this chapter. If it is determined by the county and VDOT that the developer has not complied with these requirements, the county may call the maintenance and indemnifying bond and use the proceeds therefrom to have the streets brought up to standards to be taken into the state secondary highway system and shall withhold any building permits or certificates of occupancy until streets are accepted into VDOT's secondary highway system. If for any reason the funds held by the county to bring the road up to state standards are not adequate for completion of the work, the developer shall be responsible for any cost over and above the amount of funds held by the county.

(q) For the purpose of this chapter, "maintenance of the road" shall be deemed to mean maintenance of the streets, curb, gutter, ditches, stormwater management facilities, utilities, street signs, or other street improvements, including the correction of defects or damages, so as to keep such road open for public usage. (P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 98-3, 5-27-98; P.C. Ord. No. 02-09, 9-25-02; P.C. Ord. No. 03-02, 6-11-03; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-16. Monuments.**

(a) Upon completion of subdivision streets, utilities and other improvements, the subdivider shall make certain that all monuments and street signs required by the agent are clearly visible for inspection and use. Such monuments and street signs shall be inspected and approved by the agent before any improvements are accepted by the county.

(b) Permanent monuments shall be placed in the ground at all corners and angle points in the outer lines of the subdivision and at all points of angles and curvature in the right-of-way lines of all streets and all lot corners within the subdivision. At designated points in the outer lines of the subdivision and at a minimum of at least two (2) points in each block, such monuments shall be stone or precast concrete, not less than four (4) inches square or four (4) inches in diameter, and at least twenty-four (24) inches long. In all other locations such monuments shall be iron or steel pipe not less than one-half ( 1/2) inch nor more than one (1) inch in diameter and at least eighteen (18) inches long. The top of all stone and concrete monuments shall be set not less than one (1) inch nor more than four (4) inches above the finished grade at their respective locations. When rock is encountered a hole shall be drilled four (4) inches deep in the rock into which shall be cemented a steel rod one-half ( 1/2) inch in diameter, the top of which shall be flush with the finished grade line. (P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-17. Sanitary sewer and water installations and connections.**

(a) No subdivision shall be approved where individual water or septic tanks are to be used until written approval has been secured from the health official. In order to grant approval, the health official, or his agent, shall determine the suitability of soil for the use of septic systems with subsurface disposal, that satisfactory service of the system is reasonably anticipated and that a reserve drain field capable of meeting one hundred (100) percent of the septic requirements of the development is also provided for the parcel. The area set aside for septic drainfield use and the reserve area shall be shown on the plat, and there shall be a statement on the plat that the drainfield and reserve area shall remain open and available for use as a septic drainfield. The health official shall require percolation tests or other methods of soil evaluation in determining the suitability of the soil for subsurface disposal. Percolation tests or other soil evaluation shall be the responsibility of the subdivider.

(b) If a public water or sewerage system is made available to the subdivision by the developer, the service shall be extended to all lots within said subdivision. If public sewer is available to the property, the subdivision shall be served by public sewer. Prior to issuance of any building permit, water service shall be available, and prior to certificate of occupancy being issued, the structure shall be connected to water and sewer.

(c) Nothing in this article shall prevent the installation of privately owned water distribution systems or sewage collection and treatment facilities; provided, that any such installation must meet the applicable requirements of all state or local regulatory agencies except as required by subsection (b) above.

(d) No divisions of land shall be approved which would allow the new parcel to be served by pit privies. Additionally, if the parent tract is served by a pit privy, no divisions of land shall be approved from that parent tract until such time as a septic drainfield permit with one hundred (100) percent reserve area has been approved by the health official, and said drainfield installed to serve the parent tract. Prior to approval of the new parcel, a copy of the septic operation permit shall be submitted to the agent.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 94-11, 5-25-94; P.C. Ord. No. 97-16, 8-29-97; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-18. Flood control.**

(a) A statement of the floodplain designation shall be included on the preliminary and final plats. In addition, the 100-year floodplain boundary, including the flood-fringe and floodway, if available, shall be shown on the preliminary and final plats. Land subject to flooding may be subdivided provided each lot shall have a building area conforming to the requirements of this code that is above the 100-year flood elevation.

(b) Elevations and flood profiles may be required by the agent for land that is deemed by the agent to be in close proximity to or within the floodplain.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-19. Payment of pro rata share of cost of off-site sewer and drainage facilities.**

Each subdivider of land subject to the provisions of this chapter may be required to pay a pro rata share of the cost of providing off-site water, sewer and stormwater management facilities which are necessitated, in whole or in part, by the proposed improvement or construction on the land to be subdivided.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-20. Fire protection.**

Where adequate water is available, the installation of fire hydrants by the subdivider or developer in a subdivision, shall be required as necessary to provide adequate fire protection. At a minimum a fire hydrant shall be installed at each intersection. If the distance between hydrants located at the intersections exceeds 600 feet, intermediate hydrants(s) shall be provided so that the distance between hydrants does not exceed 600 feet. The agent and fire chief shall approve the location of all hydrants.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-21. As-built plan for utilities and stormwater management.**

Upon completion of utilities in a subdivision, there shall be submitted to the agent two (2) copies of a reproducible as-built plan, prepared by a certified land surveyor or professional registered engineer licensed to practice in the commonwealth, showing stormwater management facilities, sanitary sewers, water lines with appurtenances, and other underground utilities with a certification that all such stormwater management facilities and utilities were constructed in accordance with approved plans and specifications and applicable laws and regulations.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-22. Reservation of land for public use.**

(a) No plat of a subdivision showing any public easement or right-of-way within a subdivision shall be recorded, nor shall any such easement or right-of-way otherwise be accepted for dedication to public use, until such proposed plat or other dedication shall first have been approved by the agent, and evidence of such approval shown on the instrument to be recorded. Such approval shall not be given by the agent until any such easement or right-of-way complies with all requirements of this chapter.

(b) All public utility and stormwater management easements outside the right-of-way of public streets are to be shown on final plats. Where it is necessary to place public utilities within the right-of-way shown for public or restricted street purposes, approval shall be obtained from the agent for such installation. Utility installations to be constructed within public streets or rights-of-way shall be coordinated with the street construction plans and profiles as approved by the highway engineer.

(c) In subdividing property, consideration shall be given to suitable sites for parks, schools and other areas of public use as contained in the comprehensive plan. Such recommendations for parks, schools or other public land shall be indicated on the preliminary plat in order that it may be determined if, when, and in what manner such areas will be dedicated to, reserved for, or acquired by the board for that use. This provision shall not be construed to preclude the dedication of property to public use not included in the comprehensive plan, provided such dedication is submitted to and approved by the board in accordance with section 15.2-2232 of the Code of Virginia, as amended.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-23. Open space for recreational purposes.**

The subdivider is encouraged to provide common open space for recreational purposes in residential subdivisions beyond open space requirements under chapter 17 (zoning).

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

**Sec. 16-24. Soils study.**

The agent may require a subdivider to have a special soils study prepared where poor or unusual soils conditions exist.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

**Sec. 16-25. Erosion and sediment control and stormwater management.**

Plans and specifications for the control of erosion and sedimentation and stormwater management, including adequate bonding or other assurance, shall be submitted to and approved by the county erosion and sediment control administrator in accordance with the requirements of this code, before any construction or building permits shall be issued for such work in a subdivision.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

**ARTICLE III.**

**PLATTING**

**DIVISION I.**

**GENERALLY**

**Sec. 16-26. Land subject to joint control.**

When the land involved in proposed subdivision lies partly within an area subject to the joint control of more than one (1) political jurisdiction, the plat shall be submitted to the commission or other designated agent of each political subdivision in which the tract of land is located.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

**Sec. 16-27. Fees.**

There shall be a charge for the examination and approval or disapproval of every plat, deed exception and variance submitted to the county. Such fee shall be in the form of cash or a check payable to the "County of Rockingham, Virginia" and shall be deposited at the time of the filing of a plat with the agent according to the schedule of fees established by the board of supervisors.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 8-93, 8-25-93; P.C. Ord. No. 04-06, 6-23-04)

**Sec. 16-28. Changes in plats.**

No changes, erasure or revision shall be made on any preliminary or final plat, or on accompanying data sheets, after approval of the agent has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the agent and unless such changes shall comply with these subdivision regulations in every respect.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

## **DIVISION 2.**

### **PRELIMINARY PLAT**

#### **Sec. 16-29. Generally.**

(a) Before the preparation of a preliminary plat, a subdivider is encouraged to confer with the agent relative to the regulations contained in this chapter, the comprehensive plan, the zoning ordinance and other applicable ordinances.

(b) Except as provided in section 16-37, each subdivider shall submit to the agent a preliminary subdivision plat which conforms to this chapter and adopted policies and regulations.

(c) The subdivider shall submit eleven (11) copies of the preliminary plat. One (1) copy, with the action of the agent noted thereon, shall be returned to the subdivider. The subdivider may submit one (1) copy of preliminary plat in digital form.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-30. Method of preparation; scale; contents.**

Preliminary plats of a subdivision shall be prepared in accordance with the regulations of this chapter. The plat shall be drawn to a scale of one (1) inch equals one hundred (100) feet, unless otherwise approved by the agent, and may be on one (1) or more sheets as necessary to show the following information:

- (1) That the plat meets the standard for plats as adopted under subsection 42.1-82 of the Virginia Public Records Act or any successor statute thereto;
- (2) Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of sheets, north point and scale;
- (3) Location of proposed subdivision by an inset map, at a scale of not less than one (1) inch equals two thousand (2,000) feet, indicating thereon nearby towns and cities, subdivisions, highways and roads and their names and numbers, and other distinguishing landmarks;
- (4) The name or number of the section if a part of a larger tract;
- (5) A boundary survey or existing survey of record, total acreage, acreage of subdivided area, number and approximate area of all building sites, computations showing conformance with the density, open space and coverage requirements of the zoning ordinance, existing buildings within the boundaries of the subdivision, names of owners and their property lines within the boundaries of the proposed subdivision and adjoining such subdivision;
- (6) All existing, platted and proposed streets and easements, their names, route numbers and approximate widths; public areas and parking spaces; existing or proposed utilities, and other pertinent data, including a traffic analysis and categorization plan, where required by the

highway engineer.

- (7) A topographic map, compiled by either field or photogrammetric methods, with a contour interval of not greater than five (5) feet, unless a larger interval is approved by the agent, showing all the area covered by the subdivision properly related to coast and geodetic survey data showing the boundary lines of the tract to be subdivided;
- (8) All parcels of land intended to be dedicated or reserved for public use or to be reserved in the deed for the common use of property owners in the subdivision;
- (9) Areas shown in the comprehensive plan of the county as proposed sites for schools, parks, or other uses including floodplains which are located wholly, or in part, within the lands being subdivided;
- (10) Plans indicating the provisions for all utilities, including, but not limited to, the stormwater management, water supply, sewage disposal, and easements for utilities. Plans for any bridges or culverts that may be required shall be submitted;
- (11) The tax map number, zoning classifications and proposed use for the area being subdivided and for adjoining properties;
- (12) Proposed sedimentation and erosion control measures;
- (13) The number of lots and dimensions and square footage of each lot;
- (14) Floodplain designation with the one hundred-year floodplain boundary, flood fringe and floodway, if available, shown on each lot that lies within the one hundred-year floodplain;
- (15) Identification of any grave, object or structure marking a place of burial located on the tract or parcel of land to be divided;
- (16) Location and setbacks of any structures on the property being subdivided;
- (17) Location of all existing and proposed fire hydrants;
- (18) Minimum setback line and setback line where minimum required width of property is first located; and
- (19) Any easements along lot lines shall be shown on the affected lots with type of easement and width of easement designated including utility easements, and stormwater management easements and facilities, as well as any other easements on the property.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-31. Review and decisions.**

- (a) Upon receiving the preliminary plat, the agent shall transmit a copy of said plat to each

appropriate body or agency for review. Any agency making such a review shall complete its review within forty-five (45) days after receipt of such preliminary plat. If such agency does not approve the preliminary plat, it shall set forth in writing the reasons for such denial and shall state what corrections or modifications would permit approval of the preliminary plat by such agency.

(b) Upon receipt of the approvals from all agencies, the agent shall act upon the preliminary plat within forty-five (45) days. If the agent does not approve the preliminary plat, he shall set forth in writing the reason for such denial and shall state what corrections or modifications will permit approval by the agent. When approval from other agencies is required on preliminary plats, decisions by the agent shall be completed within ninety (90) days of submission to the agent.

(c) If approval from other agencies is not required, the agent shall complete action on any preliminary plat within sixty (60) days of submission to such agent. However, the agent shall not be required to approve a preliminary plat in less than sixty (60) days from the date of its original submission to the agent. (P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

### **Sec. 16-32. Period of validity of approval; approval does not constitute acceptance of plat for recordation.**

Once a preliminary subdivision plat is approved, it shall be valid for a period of five (5) years, provided the subdivider:

- (1) Submits a final subdivision plat for all or a portion of the property within two (2) years of such approval; and
- (2) Thereafter diligently pursues approval of the final subdivision plat.

"Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04; P.C. Ord. No. 05-11, 8-24-05)

## **DIVISION 3.**

### **CONSTRUCTION PLAN**

#### **Sec. 16-33. Generally.**

After receiving approval of the preliminary subdivision plat and within the period of approval of such plat, a subdivider shall submit four (4) sets of construction plans to the agent and three (3) sets of construction plans to VDOT showing the specific location and design of improvements to be made in accordance with the provisions of this chapter. A subdivider shall also submit to VDOT two (2) sets of drainage calculations and two (2) copies of VDOT Staunton District Subdivision checklist. Such plans shall be submitted prior to, or concurrently with, the final plat submitted pursuant to article III, division 4 of this chapter.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-34. By whom prepared.**

Construction plans for subdivision development shall be prepared and certified by a registered professional engineer or certified land surveyor licensed to practice in the commonwealth.  
(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

**Sec. 16-35. Construction standards.**

All construction plans submitted shall conform to street standards, utility standards, erosion and sediment control standards and stormwater management standards, as set forth in this chapter and in chapter 6B of the Rockingham County Code, and all other state, federal, and local standards.  
(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

**Sec. 16-36. Approval.**

A construction plan submitted in compliance with this chapter shall be considered and acted upon by the agent prior to, or concurrently with, the final subdivision plat. The approval of the construction plan and specifications shall be null and void if the final subdivision plat is not recorded with the clerk within the allowable period for final plat recordation.  
(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

**DIVISION 4.**

**FINAL PLAT**

**Sec. 16-37. Generally.**

(a) Each subdivider shall, after receiving approval of his preliminary subdivision plat, submit to the agent a final subdivision plat which conforms to this article and adopted policies and regulations. In the following cases, a final plat may be submitted and no preliminary plat shall be required:

- (1) The adjustment or rearrangement of property lines where no additional parcels are created; or
- (2) The creation of three (3) or fewer lots, all of which will have proper frontage and legal access on an existing state maintained road, and where no improvements are proposed or required, may be approved by the agent, provided the subdivision plat conforms with the minimum requirements of this chapter and with the policies and standards of VDOT's subdivision street requirements.

(b) A subdivider shall file an original transparency of scale true material and eleven (11) copies of the final plat, including the supportive data herein, with the agent.  
(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

**Sec. 16-38. By whom prepared.**

Final subdivision plats shall be prepared by a certified land surveyor or registered professional engineer, licensed to practice in the commonwealth.  
(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

### **Sec. 16-39. Method of preparation; scale; contents.**

The plat shall be drawn to the scale of one (1) inch equals one hundred (100) feet, unless otherwise approved by the agent, and the sheet size shall not exceed eight and one-half (8 1/2) inches by fourteen (14) inches with at least a one-quarter ( 1/4) inch border on all sides. More than one (1) sheet may be used; and if shown on more than one (1) sheet, match lines shall clearly indicate where the multiple sheets join. The final plat shall adhere to the Virginia Public Records Act under subsection 42.1-82 of the State Code or any successor statute thereto and, in addition to the requirements of this chapter for a preliminary plat, shall include the following:

- (1) The boundary lines of the area being subdivided shall be determined by an accurate field survey with bearings shown in degrees, minutes and seconds to the nearest ten (10) seconds and dimensions to be shown in feet to the nearest hundredth of a foot to the accuracy of one (1) in ten thousand (10,000). Total acres in each proposed use plus one hundred year floodplain delineation shall be shown. The location and material of permanent reference monuments shall be shown. A definite bearing and distance tie shown between not less than two (2) permanent monuments on the exterior boundary of the subdivision and further tie to existing street intersection where possible and reasonably convenient.
- (2) Streets shall be named but shall not duplicate existing or platted street names unless the new street is a continuation of an existing or platted street. All dimensions both linear and angular for location of lots, streets, alleys, public easements, and private easements shall be expressed in feet to the hundredths of a foot, and all angular measurements shall be expressed by bearings or angles expressed to the nearest ten (10) seconds. All curves shall be defined by their radius, central angle, tangent length, chord bearings and chord and arc lengths. Such curve data shall be expressed for all curves in a tabulated form and numbered to correspond with the curve shown on the plat.
- (3) Lot numbers and block identification.
- (4) Location of all minimum building set-back lines specified in chapter 17 (zoning) of this code, with the area, in square feet or acres, of lots indicated for each individual parcel.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

### **Sec. 16-40. Required certificates.**

All of the following signed certificates are required before a plat may be recorded with the clerk's office. The agent shall not sign the plat until all other signatures are obtained.

- (1) The surveyor or engineer who prepares a final subdivision plat shall endorse upon such plat a signed certificate setting forth the source of title of the owner of the land subdivided and the place of record of the last instrument of the chain of title. When the plat is of land acquired from more than one (1) source of title, the outlines of the several tracts shall be indicated upon such plat.

Surveyor's certificate.

I hereby certify that to the best of my knowledge and belief, all of the requirements of the board of supervisors and ordinances of the County of Rockingham, Virginia, regarding the platting of subdivisions within the county, have been complied with.

Given under my hand this \_\_\_\_\_ date of \_\_\_\_\_, 20\_\_\_\_\_

State Certified Engineer (or Land Surveyor)

- (2) Every final subdivision plat, or deed of dedication to which the plat is attached, shall contain, in addition to the professional engineer's or the surveyor's certificate required by this chapter, a statement as follows:

Owner's consent and dedication.

Know all men by these presents, that the subdivision of land as shown on this plat, containing \_\_\_\_\_ acres, more or less, and designated as \_\_\_\_\_ Subdivision, situated in \_\_\_\_\_ District in the County of Rockingham, Virginia, is with the free consent and in accordance with the desires of the undersigned owners thereof; that all streets shown on said plat are hereby dedicated to the public use, and that all lots within the subdivision are subject to certain restrictions, reservations, stipulations and covenants as contained in a writing executed by the undersigned, under date of \_\_\_\_\_, 20\_\_\_\_\_ and recorded in the Clerk's Office of Rockingham County, in Deed Book \_\_\_\_\_ Page \_\_\_\_\_. The said \_\_\_\_\_ acres of land hereby subdivided having been conveyed to \_\_\_\_\_ by \_\_\_\_\_ by deed dated \_\_\_\_\_, 19\_\_\_\_\_ and recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia in Deed Book \_\_\_\_\_ Page \_\_\_\_\_.

Given under our hands this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_(SEAL)

\_\_\_\_\_(SEAL)

\_\_\_\_\_(SEAL)

- (c) Signature panels shall be provided for the highway engineer, for the health official and/or agent of a community water or sewer system when such a system is to serve the subdivision, and for the agent of the board.

Certificate of approval

This subdivision known as \_\_\_\_\_ Subdivision is approved by the undersigned in accordance with existing subdivision regulations and may be admitted to record.

_____	(Signed)	_____
(date)		Highway Engineer
_____	(Signed)	_____

(date)		Health Officer and/or Agent of a Community Water and Sewer System
	(Signed)	
(date)		Agent of the Board

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 2-91, 3-27-91; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-41. Decisions by agent.**

(a) A decision on the final plat shall be rendered by the agent within sixty (60) days after such plat is submitted to the agent.

(b) Upon notification from the agent that the final plat is ready for signature, the subdivider shall submit to the required agencies the original and four (4) copies for signatures by the required agencies. Said original and copies shall then be submitted to the agent for his approval.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-42. Recordation.**

(a) Upon the agent determining a final plat meets the requirements of this chapter, the developer shall provide assurance to the agent, in accordance with the bonding policy of the county, that all improvements contained on the final plat have been, or will be constructed at the cost of the developer. Such assurance may be by certification that the improvements have been completed and payment has been made to the person constructing such improvements; or, by providing a certified check, cash escrow, bond with approved surety, or a bank letter of credit in an amount sufficient for and conditioned upon the construction of such improvements and in accordance with the bonding policy of the county. Upon provision of such assurance that improvements will be constructed, the original signed final plats shall be filed in the office of the clerk of the circuit court. No such plat of any subdivision shall be recorded by said clerk unless and until it shall have been submitted to and approved by the agent.

(b) If the developer records a final plat, which may be a section of a subdivision as shown on an approved preliminary plat, and furnishes to the agent a certified check, cash escrow, bond or letter of credit in the amount of the estimated cost of construction of the facilities within said section to be dedicated for public use and maintenance by the locality, the commonwealth, or other public agency, the developer shall have the right to record the remaining section shown on the preliminary plat for a period of five (5) years from the recordation date of the first section, subject to the terms and conditions of this subsection and subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded.

(c) Upon recordation of a final subdivision plat, the developer shall forward a copy of the original plat with the recordation information on it to the agent. No permits shall be issued until the agent has received a copy of the recorded plat.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 97-5, 4-23-97; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-43. Period of validity of approval.**

Approval of the final plat by the agent shall be void unless the plat is recorded within one (1) year after approval.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 94-8, 5-25-94; P.C. Ord. No. 04-06, 6-23-04)

## **ARTICLE IV.**

### **VACATION OF PLATS OR BOUNDARY LINES**

#### **Sec. 16-44. Before sale of lot.**

Any recorded subdivision plat, or part thereof, may be vacated, with the consent of the agent, by the owners, proprietors and trustees, if any, who signed the statement required by section 16-40(b), at any time before the sale of any lot therein, by a written instrument, declaring the same to be vacated, duly executed, acknowledged or proved and recorded in the clerk's office. The execution and recordation of such writing shall operate to destroy the force and effect of the recording of the plat so vacated and divest all public rights in, and to reinvest such owners, proprietors and trustees, if any, with the title to the streets, alleys, easements for public passage and other public areas laid out or described in such plat.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-45. After sale of lot--Methods.**

In cases where any lot in a subdivision has been sold, the subdivision plat, or part thereof, may be vacated according to either of the following methods:

- (1) By instrument in writing agreeing to such vacation, signed by all the owners of lots shown on the plat and also signed on behalf of the board by the county administrator. The word "owners," as used herein, shall not include lien creditors, except those whose debts are secured by a recorded deed of trust or mortgage, and shall not include any consort of an owner. The instrument of vacation shall be acknowledged in the manner of a deed and filed for record in the officer of the clerk;
- (2) By ordinance of the board, on motion of one (1) of its members or on application of any interested persons. Such ordinance shall not be adopted until notice has been given as required by the Code of Virginia, as amended.

Such notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the meeting of said board at which the adoption of the ordinance will be voted upon. Any person may appear at such meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed, within thirty (30) days, with the circuit court of the county. Upon such appeal, the court may nullify the ordinance, if it finds that the owner of any lot shown on the plat will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time above provided, or if the ordinance is upheld on appeal, a certified copy of the ordinance of vacation shall be recorded in the officer of the clerk.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-46. After sale of lots--Effect.**

The recordation of an instrument or ordinance of vacation as provided for in section 16-45 shall operate to destroy the force and effect of the recording of the plat, or part thereof, so vacated, and to vest fee simple title to the center line of any streets, alleys or easements for public passage so vacated in the owners of abutting lots, free and clear of any rights of the public or other owners of lots shown on the plat, but subject to the rights of the owners of any public utility installations which have been previously erected therein. If any such street, alley or easement for public passage is located on the periphery of the plat, such title, for the entire width thereof, shall vest in such abutting lot owners. The fee simple title to any portion of the plat so vacated as was set apart for other public use shall be revested in the owners, proprietors and trustees, if any, who signed the statement required by the Code of Virginia, as amended, free and clear of any rights of public use in the same. (P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-47. Duty of clerk.**

The clerk shall write, in plain legible letters, across each plat, or the part thereof, vacated pursuant to the provision of this article, the word "vacated" and also make reference on the same to the volume and page in which the instrument of vacation is recorded.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-48. Vacation of boundary lines.**

The boundary lines of any lot or parcel of a valid and properly recorded subdivision may be relocated or otherwise altered provided such action does not create any new lots, and does not affect any street, alley, easement for public passage, or other public areas; (or, in the event that easements or utility rights-of-way would be relocated or altered, the express written consent of all parties holding any interest therein shall be obtained in form acceptable to the agent). Such alteration of boundary lines shall be executed by (1) the owner or owners of such lot or parcels submitting a plat and certificates prescribed in article III of this chapter, (2) the agent's approval of such plat and (3) the recordation of the plat with the clerk.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-49. Fees.**

There shall be a charge for the examination and approval or disapproval for every plat submitted for vacation to the county according to the fees established by the board of supervisors.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 8-93, 8-25-93; P.C. Ord. No. 04-06, 6-23-04)

### **ARTICLE V.**

#### **APPEALS**

#### **Sec. 16-50. General.**

Any person aggrieved by a decision of the agent may appeal said decision to the county administrator within ten (10) days after the agent's decision.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 26-92, 12-16-92; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-51. Plats.**

(a) If the agent fails of approve or disapprove the plat within the time period allotted after official submittal for approval as set forth in this chapter, the subdivider, ten (10) days after providing written notice to the agent, may petition the circuit court of the county to decide whether the plat should or should not be approved. The court shall hear the matter and make and enter such order with respect thereto as it deems proper, which may include directing approval of the plat.

(b) If the agent disapproves a plat and the subdivider contends that such disapproval was not properly based on this chapter, or was arbitrary or capricious, he may appeal to the circuit court and the court shall hear and determine the case as soon as may be, provided that the appeal is filed with the circuit court within sixty (60) days of the written disapproval by such agent.

(c) The clerk shall not file or record a plat of a subdivision or deed involving a division of land required to be recorded until such has been approved, as required by this chapter. The signature of the agent shall evidence the required approval.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04)

## **ARTICLE VI.**

### **PENALTIES AND CIVIL REMEDIES.**

#### **Sec. 16-52. Penalties.**

Any person violating the foregoing provisions of this chapter shall be subject to a fine of not more than five hundred dollars (\$500.00) for each lot or parcel of land so subdivided or transferred or sold, and the description of such lot or parcel lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from any remedies provided for in this chapter.

(P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 94-9, 5-25-94; P.C. Ord. No. 99-5, 3-24-99; P.C. Ord. No. 04-06, 6-23-04)

#### **Sec. 16-53. No permit to be issued.**

No permit or certificate of occupancy shall be issued to any person, firm or corporation for the construction, reconstruction, alteration, or repair of any building, structure, or improvement upon real estate that has been subdivided in violation of this chapter until such time as the property is brought into compliance with the law. Real estate that has been subdivided includes both the newly created lot and the parcel from which it was divided.

(P.C. Ord. No. 04-06, 6-23-04)